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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Firs Home Owners Association,

Plaintiff,

v.

City of SeaTac, a Municipal Corporation,

Defendant.

NO. 2:19-cv-01130-RSL

DEFENDANT'S MOTION
TO MOVE HEARING DATE ON
PLAINTIFF'S MOTION TO STRIKE
AFFIRMATIVE DEFENSES

NOTE ON MOTION CALENDAR:
DEC. 13, 2019

I. MOTION

Defendant City of SeaTac hereby moves this Court for an order striking the December 13, 2019, hearing date on plaintiff's motion to strike defendant's affirmative defenses (Dkt. #42) and re-noting the hearing for an appropriate date in January 2020. This motion is submitted pursuant to LCR 7(l).

II. FACTUAL BACKGROUND

Plaintiff (herein "HOA") initiated this lawsuit by filing a complaint in King County Superior Court on July 3, 2019. (Dkt. #1-2). Defendant (herein "City") subsequently removed the lawsuit to federal court. (Dkt. #1).

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3 The City filed a motion to dismiss the complaint pursuant to Fed. R. Civ. P. 12(b)(6) on
4 September 26, 2019. (Dkt. # 17). That same day, the City served a first set of discovery on the
5 HOA. (Dkt. #45-1). The discovery was keyed to the allegations in the complaint. (Dkt. #45, ¶
6 2).

7
8 The HOA subsequently moved to amend its complaint. (Dkt #21). The City consented to
9 the amendment and also withdrew its pending discovery requests. (Dkt. #45-2). On October 21,
10 2019, the HOA filed its first amended complaint. (Dkt. #25).

11
12 Having withdrawn the discovery propounded on September 26, 2019, the City served
13 another set of discovery on the plaintiff. (Dkt. #45-3). The discovery was keyed to the
14 allegations in the first amended complaint. (Dkt. #45, ¶ 4). Many of the discovery requests are
15 similar or identical to requests served on the HOA in September 2019 and subsequently
16 withdrawn. (*Id.*). The plaintiff's answers to the pending discovery will become due on
17 December 4, 2019. (*Id.*).

18
19 On October 31, 2019, the City filed a motion to dismiss the first amended complaint
20 pursuant to Fed. R. Civ. P. 12(b)(6). (Dkt. #36). The motion was noted for hearing on
21 September 22, 2019. (*Id.*). The City has also answered the HOA's first amended complaint.
22 (Dkt. #37).

23
24 On November 22, 2019, the HOA filed a motion to strike the City's affirmative defenses.
25 (Dkt. #42). The motion is noted for hearing on December 13, 2019. (*Id.*).

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27 On November 26, 2019, the City asked the HOA to postpone the hearing on its motion to
28 strike the City's affirmative defenses until January. (Dkt. #45-4). The City argued this was

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appropriate because a ruling by the Court on the pending motion to dismiss (Dkt. #36) may moot some or all of the motion. (Dkt. #45-4). The City also explained that it anticipated moving to amend its answer after it has an opportunity to review the HOA's discovery answers in early December. (*Id.*). The HOA has not agreed to move the hearing date. (Dkt. #45, ¶ 8).

III. ARGUMENT

The City's motion is submitted in the interest of judicial economy. Local Court Rule 7(l) authorized the Court to renote a pending motion for "other reasons." There are good reasons for doing so here.

First, a motion to dismiss the first amended complaint has been filed with the Court and is awaiting adjudication. (Dkt. #36). A ruling in favor of the City on that motion will moot the HOA's motion to strike the City's affirmative defenses entirely.

In addition, the City anticipates moving to amend its affirmative defenses after it has reviewed the HOA's discovery responses, which are due the first week of December 2019. (Dkt. #45, ¶ 5). Given that a motion by the City to amend its affirmative defenses must be noted for the third Friday after it is filed, LCR 7(d)(3), the soonest the City's motion to amend its affirmative defenses could be noted for hearing is December 20, 2019, and more realistically December 27, 2019. (*Id.*, ¶ 5).

Under these circumstances, it makes little sense to adjudicate the HOA's motion to strike the City's affirmative defenses on December 13, 2019. Even if the HOA succeeds in striking some or all of the affirmative defenses as presently alleged, the City will amend its affirmative defenses. *See Employee Painters' Trust v. Pacific Northwest Contractors, Inc.*, 2013 WL

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1774628 at *3 (W.D. Wash. April 25, 2013) ("Unless it would prejudice the opposing party, courts freely grant leave to amend stricken pleadings.").

In the interest of judicial economy, adjudication of the HOA's motion to strike the City's affirmative defenses should (1) occur after the Court rules on the pending motion to dismiss, and (2) be noted for a later date so that the City may review the HOA's discovery responses and move to amend its affirmative defenses.

III. CONCLUSION

For the foregoing reasons, the Court should strike the December 13, 2019, hearing on the HOA's motion to strike the City's affirmative defenses (Dkt. #42) and re-note that motion for hearing for a later date in January 2020.

DATED THIS 27st day of November, 2019.

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CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2019, I filed the foregoing with the Clerk of the Court using the CM/ECF System, which will send notification of such filing to the following:

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and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

None.

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